

**U.S. District Court
District of Columbia (Washington, DC)
CIVIL DOCKET FOR CASE #: 1:19-cv-01253-DLF**

DOE v. BENOIT et al
Assigned to: Judge Dabney L. Friedrich
Demand: \$2,850,000
Cause: 05:552 Freedom of Information Act

Date Filed: 04/30/2019
Jury Demand: Plaintiff
Nature of Suit: 895 Freedom of
Information Act
Jurisdiction: U.S. Government Defendant

Plaintiff

J. Q. DOE

represented by **Gerald L. Gilliard**
THE LAW OFFICE OF GERALD L.
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LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Kelly Brian McClanahan
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TERMINATED: 09/30/2019

V.

Defendant

ANDREA LYNNE BENOIT
in her personal capacity

represented by **William Mark Nebeker**
U.S. ATTORNEY'S OFFICE FOR THE
DISTRICT OF COLUMBIA
555 Fourth Street, NW
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LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

JOHN DOE
Nos. 1 – 10, in their personal capacities

Defendant

**DEFENSE CONTRACT
MANAGEMENT AGENCY**
TERMINATED: 09/19/2019

represented by **William Mark Nebeker**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

**UNITED STATES DEPARTMENT
OF DEFENSE**

represented by **William Mark Nebeker**
(See above for address)

LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

DAVID H. LEWIS

*Vice Admiral, in his official capacity as
Director of the Defense Contract
Management Agency
TERMINATED: 09/19/2019*

represented by **William Mark Nebeker**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

PATRICK SHANAHAN

*in his official Capacity as Acting
Secretary of Defense
TERMINATED: 09/19/2019*

represented by **William Mark Nebeker**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

MARK T. ESPER

*Secretary of Defense, in his official
capacity as Secretary of Defense*

represented by **William Mark Nebeker**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
04/30/2019	<u>1</u>	COMPLAINT against ANDREA LYNNE BENOIT, DEFENSE CONTRACT MANAGEMENT AGENCY, JOHN DOE, DAVID H. LEWIS, PATRICK SHANAHAN, UNITED STATES DEPARTMENT OF DEFENSE (Filing fee \$ 400, receipt number 4616097810) with Jury Demand filed by J. Q. DOE. (Attachment: # <u>1</u> Civil Cover Sheet) (tth); Modified – Sealed at the request of counsel on 5/8/2019 (ztth). (Entered: 05/01/2019)
04/30/2019	<u>2</u>	SEALED MOTION filed by J. Q. DOE. (This document is SEALED and only available to authorized persons.) (Attachments: # <u>1</u> Memorandum in Support, # <u>2</u> Text of Proposed Order) (ztth) (Entered: 05/01/2019)
04/30/2019	<u>3</u>	SEALED DOCUMENT (Reference List) filed by J. Q. DOE. (This document is SEALED and only available to authorized persons.) (ztth) (Entered: 05/01/2019)
04/30/2019	<u>4</u>	MEMORANDUM AND ORDER granting <u>2</u> Sealed Motion. Signed by Chief Judge Beryl A. Howell on 4/30/2019. (tth) (Entered: 05/01/2019)
04/30/2019	<u>5</u>	SEALED DOCUMENT filed by J. Q. DOE. "FILE UNDER SEAL" by Chief Judge Beryl A. Howell on 4/29/2019. (This document is SEALED and only available to authorized persons.) (ztth) (Entered: 05/01/2019)
04/30/2019	<u>6</u>	SEALED DOCUMENT (Complaint) filed by J. Q. DOE. re <u>1</u> Complaint, filed by J. Q. DOE. (This document is SEALED and only available to authorized persons.) (ztth) (Entered: 05/01/2019)
05/01/2019	<u>7</u>	SUMMONS (7) Issued Electronically as to ANDREA LYNNE BENOIT, DEFENSE CONTRACT MANAGEMENT AGENCY, DAVID H. LEWIS, PATRICK SHANAHAN, UNITED STATES DEPARTMENT OF DEFENSE, U.S. Attorney and U.S. Attorney General. (Attachment: # <u>1</u> Notice and Consent) (ztth) (Entered: 05/01/2019)
05/08/2019	<u>8</u>	MOTION To Seal re <u>1</u> Complaint, by J. Q. DOE (Attachments: # <u>1</u> Text of Proposed Order)(Gilliard, Gerald); Modified event on 5/9/2019 (tth). (Entered: 05/08/2019)
05/08/2019	<u>9</u>	ERRATA by J. Q. DOE <u>1</u> Complaint, filed by J. Q. DOE. (Attachments: # <u>1</u> Exhibit A)(Gilliard, Gerald) (Entered: 05/08/2019)
05/08/2019		MINUTE ORDER granting the plaintiff's <u>8</u> Motion to Seal the Complaint. Accordingly, it is ORDERED that the plaintiff's <u>1</u> Complaint shall be maintained under seal. Signed by Judge Dabney L. Friedrich on May 8, 2019. (lcl1f1) (Entered: 05/08/2019)

05/16/2019	<u>10</u>	NOTICE of Appearance by Kelly Brian McClanahan on behalf of J. Q. DOE (McClanahan, Kelly) (Entered: 05/16/2019)
06/11/2019	<u>11</u>	NOTICE of Appearance by William Mark Nebeker on behalf of ANDREA LYNNE BENOIT, DEFENSE CONTRACT MANAGEMENT AGENCY, DAVID H. LEWIS, UNITED STATES DEPARTMENT OF DEFENSE (Nebeker, William) (Entered: 06/11/2019)
06/11/2019	<u>12</u>	Unopposed MOTION for Extension of Time to File Answer re <u>1</u> Complaint, by ANDREA LYNNE BENOIT, DEFENSE CONTRACT MANAGEMENT AGENCY, DAVID H. LEWIS, PATRICK SHANAHAN, UNITED STATES DEPARTMENT OF DEFENSE (Attachments: # <u>1</u> Text of Proposed Order)(Nebeker, William) (Entered: 06/11/2019)
06/12/2019		MINUTE ORDER granting the defendants' unopposed <u>12</u> Request for Extension of Time. Accordingly, it is ORDERED that the defendants shall file their answer or other response to the plaintiff's complaint on or before July 12, 2019. Future requests for extensions of time must include the number of previous extensions requested and will be granted only in extraordinary circumstances. Signed by Judge Dabney L. Friedrich on June 12, 2019. (lcldf1) (Entered: 06/12/2019)
07/11/2019	<u>13</u>	Unopposed MOTION for Extension of Time to File Answer re <u>1</u> Complaint, by ANDREA LYNNE BENOIT, DEFENSE CONTRACT MANAGEMENT AGENCY, DAVID H. LEWIS, PATRICK SHANAHAN, UNITED STATES DEPARTMENT OF DEFENSE (Attachments: # <u>1</u> Text of Proposed Order)(Nebeker, William) (Entered: 07/11/2019)
07/12/2019		MINUTE ORDER granting in part and denying in part the defendants' unopposed <u>13</u> Request for Extension of Time. Accordingly, it is ORDERED that the defendants shall file their answer or other response to the plaintiff's complaint on or before July 26, 2019. Future requests for time must include the number of previous extensions and will be granted only in extraordinary circumstances. Signed by Judge Dabney L. Friedrich on July 12, 2019. (lcldf1) (Entered: 07/12/2019)
07/25/2019	<u>14</u>	STIPULATION of Dismissal (<i>Partial</i>) by J. Q. DOE. (McClanahan, Kelly) (Entered: 07/25/2019)
07/26/2019	<u>15</u>	Unopposed MOTION for Extension of Time to File Answer re <u>1</u> Complaint, by DEFENSE CONTRACT MANAGEMENT AGENCY, DAVID H. LEWIS, PATRICK SHANAHAN, UNITED STATES DEPARTMENT OF DEFENSE (Attachments: # <u>1</u> Text of Proposed Order)(Nebeker, William) (Entered: 07/26/2019)
08/01/2019		MINUTE ORDER granting in part and denying in part the defendants' <u>15</u> Unopposed Motion for Enlargement of Time. In light of the defendants' motion and the parties' <u>14</u> Stipulation of Dismissal, it is ORDERED that the plaintiff shall file on or before August 8, 2019 any amended complaint. It is further ORDERED that the defendants shall file on or before August 29, 2019 an answer either to the amended complaint, or, if the plaintiffs have not filed an amended complaint, to the original complaint. Signed by Judge Dabney L. Friedrich on August 1, 2019. (lcldf1) (Entered: 08/01/2019)
08/01/2019		Set/Reset Deadlines: Amended Complaint due by 8/8/2019. Answer due by 8/29/2019. (zcal) (Entered: 08/02/2019)
08/29/2019	<u>16</u>	MOTION to Dismiss <i>In Part And</i> , MOTION to Strike <u>1</u> Complaint, by DEFENSE CONTRACT MANAGEMENT AGENCY, DAVID H. LEWIS, PATRICK SHANAHAN, UNITED STATES DEPARTMENT OF DEFENSE (Attachments: # <u>1</u> Text of Proposed Order)(Nebeker, William) (Entered: 08/29/2019)
09/12/2019	<u>17</u>	Unopposed MOTION for Extension of Time to File Response/Reply as to <u>16</u> MOTION to Dismiss <i>In Part And</i> MOTION to Strike <u>1</u> Complaint, by J. Q. DOE (Attachments: # <u>1</u> Text of Proposed Order)(McClanahan, Kelly) (Entered: 09/12/2019)
09/13/2019		MINUTE ORDER granting the plaintiff's <u>17</u> Unopposed Motion for Enlargement of Time to File Opposition to Defendant's Motion to Dismiss In Part and to Strike. The plaintiff shall file any opposition on or before September 27, 2019; the defendant shall file any reply on or before October 4, 2019. So Ordered by Judge Dabney L. Friedrich on September 13, 2019. (lcldf1) (Entered: 09/13/2019)

09/19/2019	<u>18</u>	AMENDED COMPLAINT against UNITED STATES DEPARTMENT OF DEFENSE filed by J. Q. DOE.(McClanahan, Kelly) (Entered: 09/19/2019)
09/30/2019	<u>19</u>	NOTICE OF WITHDRAWAL OF APPEARANCE as to J. Q. DOE. Attorney Kelly Brian McClanahan terminated. (McClanahan, Kelly) (Entered: 09/30/2019)
10/03/2019	<u>20</u>	MOTION for Extension of Time to File Answer re <u>18</u> Amended Complaint by UNITED STATES DEPARTMENT OF DEFENSE (Attachments: # <u>1</u> Text of Proposed Order)(Nebeker, William) (Entered: 10/03/2019)
10/03/2019		MINUTE ORDER granting the defendants' <u>20</u> Motion for Enlargement of Time. The defendants shall answer or otherwise respond to the plaintiff's first amended complaint on or before October 17, 2019. So Ordered by Judge Dabney L. Friedrich on October 3, 2019. (lcldf1) (Entered: 10/03/2019)
10/17/2019	<u>21</u>	Unopposed MOTION for Extension of Time to File Answer re <u>18</u> Amended Complaint by UNITED STATES DEPARTMENT OF DEFENSE (Attachments: # <u>1</u> Text of Proposed Order)(Nebeker, William) (Entered: 10/17/2019)
10/17/2019		MINUTE ORDER. In its Minute Order of August 1, 2019, the Court ordered the plaintiff to file any amended complaint on or before August 8, 2019. On September 19, 2019, the plaintiff filed an untimely amended complaint without first seeking leave to file it. See Fed. R. Civ. P. 15(a)(2) (requiring the opposing party's consent or the Court's leave before a party may amend a pleading). Based on the defendant's <u>21</u> Unopposed Motion for Enlargement of Time, the Court understands that the plaintiff intends to file another amended complaint soon. It is ORDERED that the plaintiff shall seek leave to file any amended complaint on or before October 21, 2019. The Court will deny any other requests to amend the complaint filed after that date. It is FURTHER ORDERED that the defendant's <u>21</u> Unopposed Motion for Enlargement of Time is GRANTED. If the Court grants the plaintiff leave to file an amended complaint, the defendant shall answer, move to dismiss, or otherwise respond to that complaint within 21 days of the Court granting leave to amend. If the Court does not grant leave to amend, then the plaintiff's original complaint, which the defendant has already moved to dismiss, remains the operative complaint. So Ordered by Judge Dabney Friedrich on October 17, 2019. (lcldf1) (Entered: 10/17/2019)
10/21/2019	<u>22</u>	Emergency MOTION for Extension of Time to File <i>Motion to Seek Leave to Amend Complaint</i> by J. Q. DOE (Attachments: # <u>1</u> Text of Proposed Order)(Gilliard, Gerald) (Entered: 10/21/2019)
10/21/2019	<u>23</u>	MOTION for Leave to File <i>Amendment to First Amended Complaint</i> by J. Q. DOE (Attachments: # <u>1</u> Memorandum in Support, # <u>2</u> Text of Proposed Order)(Gilliard, Gerald) (Entered: 10/22/2019)
10/22/2019		MINUTE ORDER. The plaintiff's <u>22</u> Emergency Motion for Extension of Time to file an amended complaint is DENIED as moot in light of the plaintiff's <u>23</u> Motion for Leave to File Plaintiff's Second Amended Complaint. The plaintiff shall file a proposed amended complaint on or before October 25, 2019. So Ordered by Judge Dabney L. Friedrich on October 22, 2019. (lcldf1) (Entered: 10/22/2019)
10/22/2019	<u>24</u>	WITHDRAWN PURSUANT TO NOTICE FILED 10/22/2019.....SEALED MOTION FOR LEAVE TO FILE DOCUMENT UNDER SEAL filed by J. Q. DOE (This document is SEALED and only available to authorized persons.) (Attachments: # <u>1</u> Memorandum in Support, # <u>2</u> Text of Proposed Order)(Gilliard, Gerald) Modified on 10/24/2019 (znmw). (Entered: 10/22/2019)
10/22/2019	<u>25</u>	SEALED MOTION FOR LEAVE TO FILE DOCUMENT UNDER SEAL filed by J. Q. DOE (This document is SEALED and only available to authorized persons.) (Attachments: # <u>1</u> Memorandum in Support, # <u>2</u> Text of Proposed Order, # <u>3</u> Sealed Motion to Strike, # <u>4</u> Sealed Memorandum in Support of Motion to Strike, # <u>5</u> Sealed Exhibit A, # <u>6</u> Sealed Exhibit B, # <u>7</u> Sealed Declaration, # <u>8</u> Sealed Declaration of Gerald Gilliard, # <u>9</u> Proposed Order Granting Sealed Motion to Strike)(Gilliard, Gerald) (Entered: 10/22/2019)
10/22/2019	<u>26</u>	NOTICE by J. Q. DOE re <u>25</u> SEALED MOTION FOR LEAVE TO FILE DOCUMENT UNDER SEAL filed by J. Q. DOE (This document is SEALED and only available to authorized persons.) (Gilliard, Gerald) (Entered: 10/22/2019)

10/22/2019	<u>27</u>	NOTICE OF WITHDRAWAL OF MOTION by J. Q. DOE re <u>24</u> SEALED MOTION FOR LEAVE TO FILE DOCUMENT UNDER SEAL filed by J. Q. DOE (This document is SEALED and only available to authorized persons.) (Gilliard, Gerald) (Entered: 10/22/2019)
10/25/2019	<u>28</u>	MOTION for Extension of Time to File <i>Amended Complaint</i> by J. Q. DOE (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Text of Proposed Order)(Gilliard, Gerald) (Entered: 10/25/2019)
10/25/2019	<u>29</u>	PROPOSED SECOND AMENDED COMPLAINT (<i>Amended</i>) against ANDREA LYNNE BENOIT, JOHN DOE, UNITED STATES DEPARTMENT OF DEFENSE, MARK T. ESPER with Jury Demand (Fee Status:Filing Fee Waived) filed by J. Q. DOE. (Attachments: # <u>1</u> Summons)(Gilliard, Gerald) Modified event title on 11/12/2019 (znmw). (Entered: 10/25/2019)
10/31/2019		MINUTE ORDER. The plaintiff has moved for leave to file a second amended complaint. <i>See</i> Dkt. 23. The plaintiff indicates that the defendants oppose the motion. <i>See id.</i> The Court will exercise its discretion to allow the plaintiff to amend the complaint. <i>See</i> Fed. R. Civ. P. 15(a)(2). The Court will not address whether at this stage amendment would be futile because those issues are best presented squarely in any motion to dismiss the amended complaint. It is thus ORDERED that the plaintiff's <u>23</u> Motion for Leave to File Second Amended Complaint is GRANTED. The Clerk of Court is directed to docket the <u>29</u> Proposed Amended Complaint as the plaintiff's Second Amended Complaint. The Court will not grant leave to amend the complaint further absent extraordinary circumstances. It is further ORDERED that the defendants shall answer or otherwise respond to the Second Amended Complaint on or before November 14, 2019. If the defendants file an answer, the parties shall confer in accordance with Local Civil Rule 16.3 and Rule 26(f) of the Federal Rules of Civil Procedure and the parties shall file, on or before November 21, 2019, a joint meet and confer report as set forth in Local Civil Rule 16.3(d). After receiving the report, the Court will set a scheduling conference unless the Court determines, on the basis of the report, that a conference is unnecessary. <i>See</i> Local Civil Rule 16.4. If the defendants move to dismiss, the plaintiff shall respond on or before November 28, 2019; the defendants shall reply on or before December 5, 2019. Finally, because the Court grants leave to file the Second Amended Complaint, the defendants' <u>16</u> Motion to Dismiss the Complaint In Part and Motion to Strike and the plaintiffs' <u>25</u> Motion for Leave to File Document Under Seal and <u>28</u> Motion for Extension of Time to File Amended Complaint are DENIED without prejudice as moot. So Ordered by Judge Dabney L. Friedrich on October 31, 2019. (lcldf1) (Entered: 10/31/2019)
10/31/2019	<u>30</u>	SECOND AMENDED COMPLAINT against ANDREA LYNNE BENOIT, JOHN DOE, MARK T. ESPER, UNITED STATES DEPARTMENT OF DEFENSE with Jury Demand filed by J. Q. DOE. (ztth) Modified event title on 11/12/2019 (znmw). (Entered: 11/12/2019)
11/12/2019	<u>31</u>	SUMMONS (1) Issued Electronically as to MARK T. ESPER. (ztth) (Entered: 11/12/2019)
11/14/2019	<u>32</u>	MOTION to Dismiss <i>In Part and</i> , MOTION to Strike <u>30</u> Amended Complaint, <u>29</u> Complaint, by DEFENSE CONTRACT MANAGEMENT AGENCY, MARK T. ESPER, DAVID H. LEWIS, UNITED STATES DEPARTMENT OF DEFENSE (Attachments: # <u>1</u> Declaration Benoit, # <u>2</u> Exhibit 1, # <u>3</u> Exhibit 2, # <u>4</u> Text of Proposed Order)(Nebeker, William) (Entered: 11/14/2019)
11/15/2019	<u>33</u>	SEALED DOCUMENT filed by ANDREA LYNNE BENOIT, MARK T. ESPER, UNITED STATES DEPARTMENT OF DEFENSE re <u>32</u> MOTION to Dismiss <i>In Part and</i> MOTION to Strike <u>30</u> Amended Complaint, <u>29</u> Complaint, (This document is SEALED and only available to authorized persons.) (Attachments: # <u>1</u> Exhibit 1)(Nebeker, William) (Entered: 11/15/2019)
11/15/2019	<u>34</u>	NOTICE <i>Of Filing Under Seal</i> by ANDREA LYNNE BENOIT, MARK T. ESPER, UNITED STATES DEPARTMENT OF DEFENSE re <u>33</u> Sealed Document, <u>32</u> MOTION to Dismiss <i>In Part and</i> MOTION to Strike <u>30</u> Amended Complaint, <u>29</u> Complaint, (Nebeker, William) (Entered: 11/15/2019)